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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/730,592

Filing Date: December 07, 2000

Appellant(s): FITZPATRICK, JAMES MICHAEL

Richard A. Neifeld
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 16, 2005 appealing from the Office action mailed 1104/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5873069	Reuhl et al.	02-1999
4972504	Daniel, Jr. et al.	11-1990
4855908	Shimoda et al.	08-1989
5349648	Handley	09-1994
6078891	Riodan et al.	06-2000

Negin et al., An Iris Biometric System for Public and Personal Use,
February 2000, IEEE#0018-9162/00.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 40, 44 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Reuhl et al.(U.S.PAT. 5873069A).

Re claims 40 and 52: Reuhl et al. disclose a first field for storing an item identification corresponding to an item purchased from the plurality of retail stores; and a second field for storing the price paid for said item purchased(Col. 3, Lines 5-67,Col. 4, Lines 35-55, Col. 7, Lines 5-25).

Re claim 44: Reuhl et al. disclose a third field for storing at least one of the inventory list price and a price differential between the inventory list price and the price paid(Col. 12, Lines 1-52).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5, 14,15,16, 24, 25, 28, 50,51,53, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, Jr. et al.(U.S.PAT. 4972504A), Shimoda et al.(U.S.PAT. 4855908A) and Handley(U.S.PAT. 5349648A).

Re claims 1, 2, 5, 14,15,16, 24, 25, 28, 50,51,53, 54 and 55: Daniel, Jr. et al. disclose a computer-implemented method comprising the steps of: obtaining information from a plurality of retail stores to determine an identification and information for purchased items(Abstract); recording in a central information database remote from the retail stores at least one of an item identification and the information for each of the purchased items by recurrently obtaining on a predetermined schedule from checkout computers at the retail stores said information about the information for purchased

items(Abstract, col. 4, line 15-40, col. 10, line 20-col. 12, line 15, col. 16, lines 20-55).

Daniel, Jr. et al. disclose(s) the claimed invention except price-paid. However, in col. 4, line 60-col. 5, line 5 thereof, Shimoda et al. disclose(s) unit price vs. original unit price and the unit price is effectively the price paid. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al. based on the teachings of Shimoda et al. The motivation to combine these references is to enhance in-store market research retail sales data collection and analysis.

Daniel, Jr. et al. and Shimoda et al. disclose(s) the claimed invention except publishing the information database. However, in Abstract, col. 1, line 60-col. 2, line 30 thereof, Handley disclose(s) a publishing database in which different parts of the data are assembled from a database for publication. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al. and Shimoda et al. based on the teachings of Handley. The motivation to combine these references is it allows a number of publications to be in various stages of process at any one time

and this means the price-paid data is in various stages of analysis before final publication.

5. Claims 3 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, Jr. et al., Shimoda et al. and Handley as applied to claims 1 and 24 above, and further in view of Riordan et al. (U.S.PAT. 6078891 A).

Re claims 3 and 26: Daniel, Jr. et al., Shimoda et al. and Handley disclose(s) the claimed invention except scanning at least one of a frequent shopper card, a credit card, a club member card, and a debit card. However, in Col. 4, Lines 13-60 thereof, Riordan et al. disclose(s) scanning an electronic card. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and Handley based on the teachings of Riordan et al. The motivation to combine these references is the related data structures associated with the electronic card permit simple and flexible analysis and searching of the collected market data.

6. Claims 6,8,17,29,31,34,35,36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, Jr. et al., Shimoda et al. and Handley as applied to claim 5 above, and further in view of Reuhl et al. (U.S.PAT. 5873069 A).

Re claims 6,29,34,35 and 36: Daniel, Jr. et al., Shimoda et al. and Handley disclose(s) the claimed invention except comparing the price paid to an inventory list price; recording at least one of the inventory list price and a price differential between the inventory list price and the price paid; and recurrently uploading the at least one of the inventory list price and the price differential to the central computer. However, in Abstract, Col. 3, Lines 1-67, Col. 4, Lines 35-60, Col. 7, Lines 15-21, Col. 10, Lines 15-35 thereof, Reuhl et al. disclose(s) price comparison and integrated price information. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and Handley based on the teachings of Reuhl et al. The motivation to combine these references is to get the benefit of inventory price comparison with other recently quoted prices and for market analysis purposes.

Re claims 8, 17, 31, and 37: Daniel, Jr. et al., Shimoda et al. and Handley disclose(s) the claimed invention except formatting the price-paid

database into columnar entries, wherein the columnar entries include at least one of the customer identification, the store identification, the purchase item identification, the price-paid. However, in Abstract, Cols. 7, 9 and 10 thereof, Reuhl et al. disclose(s) an inventory structured database divided into columns entries. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and Handley based on the teachings of Reuhl et al. The motivation to combine these references is to get the benefit of inventory price comparison with other recently quoted prices and for market analysis purposes.

7. Claims 9,10,11,12,13,18,19,20,21,22,23,32,33,38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, Jr. et al., Shimoda et al. and Handley as applied to claims 8, 31 and 37 above, and further in view of Riordan et al.

Re claims 9, 18, 32, and 38: Daniel, Jr. et al., Shimoda et al. and Handley do not disclose(s) the claimed invention except providing on a web page the price-paid database. However, Riordan et al. teach that price paid database is available via remote means. See col. 10 of Riordan et al. providing such in a web page would have been obvious to one of ordinary skill in the art for easy and fast access.

Re claims 10,11,12,13,19,20,21,22,33 and 39: Daniel, Jr. et al.,

Shimoda et al. and Handley disclose(s) the claimed invention except selecting from at least one of a store selection, a customer selection, a brand selection, and a sales category selection within a specified district; determining one of a zip code and an area code of the user; and restricting the specified district to an area within the one of a zip code and an area code; determining one of a remote district, a regional district, and a national district for the user; and restricting the specified district to an area within the one of a remote district, a regional district, and a national district; selecting from the web page price-paid information from stores within a specified district. However, in Col. 4, Lines 25-45, Col. 5, Lines 1-50, Col. 6, Lines 40-65, Col. 10, Lines 1-15 thereof, Riordan et al. disclose specific data information. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and Handley based on the teachings of Riordan et al. The motivation to combine these references is to get the benefit of inventory price comparison with other recently quoted prices and for market analysis purposes.

Re claim 23: Daniel, Jr. et al., Shimoda et al. and Handley disclose(s) the claimed invention except a computer readable medium containing program instructions for execution on a computer system which

when executed by the computer system, cause the computer system to perform the method recited as in any one of claims 1-22. However, in Cols. 3 and 4 thereof, Riordan et al. disclose a POS computer network system that includes computer readable medium and that implements a computer program. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and Handley based on the teachings of Riordan et al. The motivation to combine these references is to get the benefit of inventory price comparison with other recently quoted prices and for market analysis purposes.

8. Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, Jr. et al., Shimoda et al. and Handley as applied to claims 2 and 25 above, and further in view of Negin et al., An Iris Biometric System for Public and Personal Use, February 2000, IEEE # 0018-9162/00.

Daniel, Jr. et al., Shimoda et al. and Handley disclose(s) the claimed invention except the step of obtaining a customer identification comprises: scanning at least one of a fingerprint, retinal scan, and a signature.

However, in all columns thereof, Negin et al. disclose(s) an iris biometric system for public and personal use. It would be obvious to one of ordinary skill in the art to modify the invention of Daniel, Jr. et al., Shimoda et al. and

Handley based on the teachings of Negin et al. The motivation to combine these references is to get the benefit of a secure, reliable form of customer identification.

9. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reuhl et al. and Riordan et al. as applied to claim 41 above, and further in view of Negin et al., An Iris Biometric System for Public and Personal Use, February 2000, IEEE # 0018-9162/00.

Reuhl et al. and Riordan et al. disclose(s) the claimed invention except the step of obtaining a customer identification comprises: scanning at least one of a fingerprint, retinal scan, and a signature. However, in all columns thereof, Negin et al. disclose(s) an iris biometric system for public and personal use. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. and Riordan et al. based on the teachings of Negin et al. The motivation to combine these references is to get the benefit of a secure, reliable form of customer identification.

10. Claims 41,42,45,46,47,48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuhl et al. in view of Riordan et al.

Re claims 41 and 42: Reuhl et al. disclose(s) the claimed invention except a third field for storing a customer identification and scanning at least one of a frequent shopper card, a credit card, a club member card, and a debit card. However, in Col. 4, Lines 13-16, Col. 9, Lines 50-60 thereof, Riordan et al. disclose(s) database fields for storing data and scanning a magnetic strip card. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is the enhanced security of associating customer identification with the relevant card.

Re claims 45: Reuhl et al. disclose(s) the claimed invention except disclose formatting the price-paid database into columnar entries, wherein the columnar entries include at least one of the customer identification, the store identification, the purchase item identification, the price-paid. However, in Abstract, Cols. 7, 9 and 10 thereof Riordan et al. disclose a data warehouse has columnar entries. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to enable organization of data in a database because columnar entries enable fast storage and retrieval of data.

Re claims 46: Reuhl et al. disclose(s) the claimed invention except providing on a web page the price-paid database. However, Riordan et al. teach that price paid database is available via remote means. See col. 10 of Riordan et al. providing such in a web page would have been obvious to one of ordinary skill in the art for easy and fast access.

Re claim 47: Reuhl et al. disclose(s) the claimed invention except selecting from at least one of a store selection, a customer selection, a brand selection, and a sales category selection within a specified district. However, as Col. 4, Lines 25-45, Col. 5, Lines 1-15, Col. 6, Lines 40-65, thereof Riordan et al. disclose the customer selects data from an array of items which he desires to purchase. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to provide a comprehensive database from which to retrieve data items. As per the claimed web page see the rejection of claims 9, 18, 32, 38 and 46 above.

Re claim 48: Reuhl et al. disclose(s) the claimed invention except permitting selection from the price-paid information by one of a user zip code and a user telephone area code. However, in Col. 4, Lines 25-60, Col. 5, Lines 1-15, Col. 6, Lines 40-65, Col. 9, Lines 45-60, Col. 10, Lines 1-15

thereof Riordan et al. disclose different fields in the database showing customized data available for retrieval. Doing the same from a web page would have been obvious to one of ordinary skill in the art thereby providing remote access of the stored data.

Re claim 49: Reuhl et al. disclose(s) determining one of a remote district, a regional district, and a national district for the user; and restricting the specified district to an area within the one of a remote district, a regional district, and a national district. However, in Col. 4, Lines 25-60, Col. 5, Lines 1-15, Col. 6, Lines 40-65, Col. 10, Lines 1-15 thereof Riordan et al. disclose customized fields that include locations. It would be obvious to one of ordinary skill in the art to modify the invention of Reuhl et al. based on the teachings of Riordan et al. The motivation to combine these references is to quickly implement customized retrieval using customized fields.

(10) Response to Argument

Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the ground(s) of rejection given above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Debra Charles



Conferees:

Vincent Millin



Sam Sough

